

REMARKS

At the time of the Office Action dated August 17, 2004, claims 1-13 were pending and rejected in this application. Claims 1-13 have been canceled, and new claims 14-22 have been added. Applicants submit that the present Amendment does not generate any new matter issue.

CLAIMS 1-13 ARE REJECTED UNDER THE SECOND PARAGRAPH OF 35 U.S.C. § 112

On page two of the Office Action, the Examiner asserted that claims 1-13 are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 1-13 have been canceled; and thus, this rejection of claims 1-13 is moot.

CLAIMS 1-13 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON FISHER, U.S. PATENT NO. 3,187,373, IN VIEW OF KUEMMERLIN, U.S. PATENT NO. 3,811,511, AND FURTHER IN VIEW OF SCHUH ET AL., U.S. PATENT NO. 3,955,240 (HEREINAFTER SCHUH)

On pages three and four of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to combine Fisher, Kuemmerlin, and Schuh to arrive at the claimed invention. Claims 1-13 have been canceled; and thus, this rejection of claims 1-13 is moot.

New claims 14-22 are directed to a locking hinge that is used with a foldable ladder configured to be installed in an opening. As illustrated in Fig. 2 of the specification, for example, conventional hinges (unnumbered) for attic-type ladders are used to connect a lower section 11 to a

central section 12 and to connect the central section 12 to an upper section 13. These hinges, however, are not locking hinges in that upon the sections 11, 12, 13 being fully unfolded, the sections 11, 12, 13 can still fold relative to one another.

Applicants have determined that when members having a reduced cross-section are used as rails (see Figs. 5(a), 5(b)) for the ladder sections, the hinges that connect these rails tend to buckle (i.e., the rails would rotate in a direction opposite from the direction the rails would rotate to fold). It was determined that the reduced cross-section of the rails resulted in a reduced stability of the ladder at the hinges. The claimed invention, as recited in independent claim 13, is directed to solving the problem of reduced stability. Whereas in the prior art, in which the ladder section could still rotate relative to one another when the ladder sections were fully unfolded, in the claimed invention, the hinge positively locks the ladder sections in place when the ladder sections are fully unfolded. This increases the stability of the ladder by preventing movement of the ladder sections relative to one another. When a user desires to fold the ladder, the locking hinge can be adjusted into another configuration that allows the ladder sections to fold relative to one another.

Furthermore, as recited in claim 18, the hinge may lock the ladder sections immediately after the ladder sections are fully unfolded. Thus, once the ladder sections are unfolded, the user is not required to perform an additional step of locking the locking hinge to prevent the ladder sections from folding since this function has already been performed.

As recited in claims 19-22, the lockable hinge includes a hinge latch that is part of the locking mechanism. When the ladder sections are in the process of being fully unfolded, a biasing

member biases the hinge latch toward a locked position, which locks the ladder sections when the ladders sections are fully unfolded. The biasing member also acts to keep the hinge latch in the locked position while the ladder sections are fully unfolded. The hinge latch is movable into an unlocked position, which allows the ladder sections to fold relative to one another. When the hinge latch is placed in the unlocked position (for example, by the user), the biasing member is prevented from biasing the hinge latch toward the unlocked position, which frees the user to perform other tasks (such as folding the ladder sections relative to one another). As the ladder sections are being folded, the biasing member is again allowed to bias the hinge latch to the locked position.

The applied prior art, although showing various types of locking hinges, fail to establish a realistic motivation to modify a conventional attic-type ladder so as to be configured with a locking hinge corresponding to that recited in claim 14. Prior to the present invention, conventional "free" hinges were deemed sufficient for attic-type ladders, and the prior art had neither identified a problem solvable by locking hinges nor the need for locking hinges. Therefore, one having ordinary skill in the art would not have arrived at the claimed invention based upon the applied prior art. Thus, Applicants respectfully submit that a rejection for obviousness based upon the applied prior art would not be proper.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing

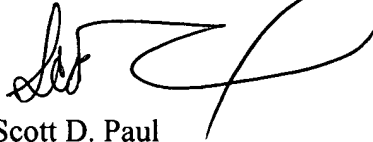
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remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417, and please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Scott D. Paul', is written over the firm name.

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